

IN THE SUPREME COURT OF FLORIDA

BLACK VOTERS MATTER
CAPACITY BUILDING INSTITUTE,
INC., et al.,

Petitioners,

v.

CORD BYRD, in his official
capacity as Florida Secretary of
State, et al.,

Respondents.

Case No.: SC23-1671

L.T. No.: 1D23-2252

2022-ca-000666

**PETITIONERS' MOTION TO EXPEDITE FILING OF RECORD AND
SET ORAL ARGUMENT FOR APRIL 2024**

Petitioners respectfully move the Court to expedite the filing of the record in this case by the Clerk of the First District Court of Appeals and to set oral argument in this case for the first week of April 2024. Petitioners have conferred with Respondents who have indicated that they intend to oppose this motion in writing. In support, Petitioners state:

1. Petitioners' appeal raises issues of great public importance that require this Court's swift resolution. Petitioners' complaint alleges that Florida's 2021 congressional plan unlawfully diminishes the voting power of its Black citizens in North Florida in

violation of the state constitution. Twice, first on a preliminary injunction and then on the merits, trial courts have agreed, concluding that the State’s 2021 congressional plan abridges the constitutional rights of Black Floridians.

2. Twice, decisions at the appellate court level have impeded Petitioners from obtaining relief in time for upcoming elections. The first time, the First DCA stayed the trial court’s preliminary injunction ruling pending resolution of the merits, making it impossible for Plaintiffs to obtain relief in time for the 2022 elections. Now, the First DCA has declined to grant the parties’ joint request for pass-through certification, and its reversal of the trial court’s decision on the merits threatens to impede Plaintiffs’ ability to obtain relief in time for the for another election cycle, even if this Court ultimately agrees with Petitioners on the merits.

3. In light of Petitioners’ waning window to access relief, Petitioners respectfully propose the following schedule to expedite briefing in this matter:

Deadline	Date
Filing of Record	February 9, 2024

Petitioners' Opening Brief	No later than February 13, 2024
State's Answer Brief	Within 30 days of the filing of Petitioners' Opening Brief
Petitioners' Reply Brief	Within 14 days (and at least 7 days before oral argument) of Respondents' Answer Brief
Oral Argument	April 1-5, 2024

4. This schedule intentionally omits a date by which Respondents may file a cross-reply consistent with Respondents' counsel's representations that no such date is needed. On January 30, 2024, Solicitor General Whitaker, responding to Petitioners' proposed schedule "on behalf of all Respondents," represented that "[t]he briefing schedule need not include time for Respondents to file a reply brief on cross appeal."

5. Petitioners' proposed schedule strikes a careful balance between the constitutional rights implicated by this appeal and the needs of the parties.

6. Florida has already held one election under what Petitioners argue, and two different trial courts have found, is an unconstitutional redistricting plan. Without an expedited briefing

schedule, Petitioners and Floridians will again vote under a redistricting plan of questionable legality.

7. Earlier in this litigation, all parties (including the Florida House, Florida Senate, and Florida Secretary of State) agreed that the best outcome for Florida's voters and its candidates was to ensure resolution of this case for 2024. Indeed, the Parties signed a stipulation streamlining many of the claims of this case, establishing key facts, and forgoing a full trial to "ensure a timely resolution" in time for the 2024 elections. *See* Petitioners' Appendix at A1.

8. Although both parties hoped to come directly to this Court and to obtain an answer from this court by the end of 2023, a new map would still be possible in time for the 2024 elections under Petitioners' proposed schedule. Florida has one of the latest primaries in the country (August 20, 2024), and the State's congressional candidate qualifying deadline is not until April 26, 2024. Even if this Court's resolution of the matter runs up to the qualifying deadline, there is ample room to adjust that deadline to ensure the State's constitution is vindicated. In fact, in redistricting years, the State's candidate qualifying deadline is typically held in June, as it was in 2022. *See* Fla. Stat. § 99.061(9).

9. The parties have had the better part of two years to consider the legal issues on appeal and have already thoroughly briefed them several times before two separate trial courts and twice before the First DCA. An oral argument in approximately 60 days is more than adequate time for the parties to prepare.

10. Petitioners propose that the Court order Respondents to respond to Petitioners' motion to expedite briefing by February 2, 2024, and order Petitioners to file a reply by 5:00 p.m., February 5, 2024. This schedule will allow the Court to decide the motion expeditiously to ensure the Parties have time to prepare to brief the issues on appeal on an expedited schedule.

WHEREFORE, the Court should expedite briefing in this proceeding.

Dated: February 1, 2024

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Respectfully submitted,

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**Admitted pro hac vice*

***Pro hac vice application
forthcoming*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 1, 2024, a copy of the foregoing was filed via electronic means through the Florida Courts E-Filing portal and was served via electronic mail on the parties listed below:

/s/ Frederick S. Wermuth
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